

State of Wisconsin

Circuit Court

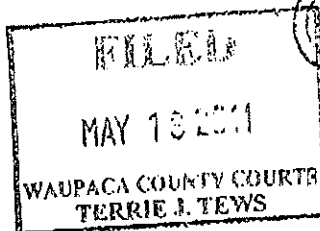
Waupaca County

STATE OF WISCONSIN

Plaintiff,

-VS-

Patrick A. James
E2216 King Road
Waupaca, WI 54981
DOB: 05/06/1952
Sex/Race: M/W
Alias:

Criminal Complaint

Defendant,

Court Case #: 11 CF 99

DA Case #: 2011WP000694
Agency Case Number: 11-1320
DA/ADA Assigned: Brenda S. Freeman

JUDGE ASSIGNED:

Sgt. Charity LePak, Waupaca County Sheriff's Department
being first duly sworn, states that:

Count 1: POSSESSION OF CHILD PORNOGRAPHY

The above-named defendant on Thursday, May 12, 2011, in the Town of Farmington, Waupaca County, Wisconsin, did, having attained the age of 18, knowingly possess photograph(s) of a child engaging in sexually explicit conduct, and reasonably should have known that the child was under the age of 18, contrary to sec. 948.12(1m)&(3)(a), 939.50(3)(d) Wis. Stats.

(PENALTY: Upon conviction for this offense, a Class D Felony, the defendant may be fined not more than One Hundred Thousand Dollars (\$100,000), or imprisoned not more than twenty five (25) years, or both. And furthermore, invoking the provisions of Wisconsin Statute Section 939.617, upon conviction the Court shall impose a bifurcated sentence including a term of initial confinement for at least three years. The Court may impose a sentence less than three years or place the person on probation upon a finding on the record that the Court finds the lesser sentence is in the best interests of the community and the public will not be harmed. And furthermore, invoking the provisions of Wisconsin Statute 973.042(2), upon conviction for a crime under 948.05 or 948.12 and the defendant is at least 18 years of age at the time of the commission of the crime, the Court shall impose a surcharge of \$500.00 for each image or each copy of an image, as defined in 973.042(1), associated with the crime. The court shall determine the number of images or copies of images associated with the crime by a preponderance of the evidence and without a jury.)

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Count 2: POSSESSION OF CHILD PORNOGRAPHY

The above-named defendant on Thursday, May 12, 2011, in the Town of Farmington, Waupaca County, Wisconsin, did, having attained the age of 18, knowingly possess photograph(s) of a child engaging in sexually explicit conduct, and reasonably should have known that the child was under the age of 18, contrary to sec. 948.12(1m)&(3)(a), 939.50(3)(d) Wis. Stats.

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Count 3: POSSESSION OF CHILD PORNOGRAPHY

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Count 4: POSSESSION OF CHILD PORNOGRAPHY

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(PENALTY: Upon conviction for this offense, a Class D Felony, the defendant may be fined not more than One Hundred Thousand Dollars (\$100,000), or imprisoned not more than twenty five (25) years, or both. And furthermore, invoking the provisions of Wisconsin Statute Section 939.617, upon conviction the Court shall impose a bifurcated sentence including a term of initial confinement for at least three years. The Court may impose a sentence less than three years or

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place the person on probation upon a finding on the record that the Court finds the lesser sentence is in the best interests of the community and the public will not be harmed. And furthermore, invoking the provisions of Wisconsin Statute 973.042(2), upon conviction for a crime under 948.05 or 948.12 and the defendant is at least 18 years of age at the time of the commission of the crime, the Court shall impose a surcharge of \$500.00 for each image or each copy of an image, as defined in 973.042(1), associated with the crime. The court shall determine the number of images or copies of images associated with the crime by a preponderance of the evidence and without a jury.)

Count 5: POSSESSION OF CHILD PORNOGRAPHY

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(PENALTY: Upon conviction for this offense, a Class D Felony, the defendant may be fined not more than One Hundred Thousand Dollars (\$100,000), or imprisoned not more than twenty five (25) years, or both. And furthermore, invoking the provisions of Wisconsin Statute Section 939.617, upon conviction the Court shall impose a bifurcated sentence including a term of initial confinement for at least three years. The Court may impose a sentence less than three years or place the person on probation upon a finding on the record that the Court finds the lesser sentence is in the best interests of the community and the public will not be harmed. And furthermore, invoking the provisions of Wisconsin Statute 973.042(2), upon conviction for a crime under 948.05 or 948.12 and the defendant is at least 18 years of age at the time of the commission of the crime, the Court shall impose a surcharge of \$500.00 for each image or each copy of an image, as defined in 973.042(1), associated with the crime. The court shall determine the number of images or copies of images associated with the crime by a preponderance of the evidence and without a jury.)

Count 6: POSSESSION OF CHILD PORNOGRAPHY

The above-named defendant on Thursday, May 12, 2011, in the Town of Farmington, Waupaca County, Wisconsin, did, having attained the age of 18, knowingly possess photograph(s) of a child engaging in sexually explicit conduct, and reasonably should have known that the child was under the age of 18, contrary to sec. 948.12(1m)&(3)(a), 939.50(3)(d) Wis. Stats.

(PENALTY: Upon conviction for this offense, a Class D Felony, the defendant may be fined not more than One Hundred Thousand Dollars (\$100,000), or imprisoned not more than twenty five (25) years, or both. And furthermore, invoking the provisions of Wisconsin Statute Section 939.617, upon conviction the Court shall impose a bifurcated sentence including a term of initial confinement for at least three years. The Court may impose a sentence less than three years or place the person on probation upon a finding on the record that the Court finds the lesser sentence is in the best interests of the community and the public will not be harmed. And furthermore, invoking the provisions of Wisconsin Statute 973.042(2), upon conviction for a crime under 948.05 or 948.12 and the defendant is at least 18 years of age at the time of the commission of the crime, the Court shall impose a surcharge of \$500.00 for each image or each copy of an image, as defined in 973.042(1), associated with the crime. The court shall determine the number of images or copies of images associated with the crime by a preponderance of the evidence and without a jury.)

PROBABLE CAUSE:

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This complaint is filed on information and belief based upon reports and statements compiled by the Wisconsin Department of Justice, Division of Criminal Investigation and the Waupaca County Sheriff's Department.

On May 12, 2011, Det. Sgt. Robert Karski of the Waupaca County Sheriff's Department met with Special Agent Matt Joy of the Wisconsin Department of Justice, Division of Criminal Investigations, at the Waupaca County Sheriff's Department. Special Agent Joy had with him Criminal Analyst Andrew Schoeneck, a computer crime analyst from the Division of Crime Investigation for the State of Wisconsin. Det. Sgt. Karski, Special Agent Joy and Criminal Analyst Schoeneck proceeded to E2216 King Road, in the Township of Farmington, County of Waupaca, State of Wisconsin. Det. Sgt. Karski and Special Agent Joy and Criminal Analyst Schoeneck met with the defendant, Patrick A. James (d.o.b. 05/06/52), at his residence. The defendant was very cooperative and invited the officers into his residence. The defendant escorted the officers into the basement where he has a computer workshop set up. The defendant did give Det. Sgt. Karski and Special Agent Joy verbal permission to search his residence and the computers in the residence. Analyst Schoeneck removed two hard drives from a computer on the work bench which the defendant indicated is a PC that he uses himself to assist him in the repairs of other PC's. The defendant also advised that this PC has access to the internet.

On Thursday, May 12, 2011, Special Agent Joy reviewed a preview disk created by Criminal Analyst Andrew Schoeneck on Thursday, May 12, 2011, after Analyst Schoeneck previewed two computer hard drives located in the basement computer workstation area of the defendant's residence, located in the Township of Farmington, County of Waupaca, State of Wisconsin, during a consent search at the defendant's residence. Special Agent Joy has no formal medical training in the use of the terms "prepubescent" and "pubescent," but in applying them relies on his experience as an investigator in child pornography investigations and his common experience. Special Agent Joy uses the term "pubescent" to mean a child who has begun to develop and display mature body shape and genital organs and/or secondary sexual characteristics such as, but not limited to, the development of breasts in females and the appearance of pubic hair and underarm hair, typically seen in children between 11-16 years of age. The term "pubescent" indicates the opinion of Special Agent Joy that the person depicted is a child, but evidences some physical and sexual maturation consistent generally with a young teenager or teenager. Special Agent Joy uses the term "prepubescent" to describe a child who does not exhibit any, or only very limited, physical-sexual development such as those indicators mentioned above, such that the child appears to be well under the age of 18 years and likely under the age of 13 years in the case of both males or females. The terms "infant" and "toddler" or "very young child" should be given their common meanings and are not used to communicate that the child depicted is clearly prepubescent and does not appear to be even nearing pubescence.

Further, the following are descriptions of the files observed by Special Agent Joy:

1. This is an image of two girls who appear to be in the very early stages of puberty, clothed and lying atop each other, facing each other. The girls' tongues are out and touching each other's tongues. The girls have white substance appearing to be ejaculate on their faces and mouths.
2. This is an image of a prepubescent girl who is nude, wearing only white shoes, lying on her back/side and facing the camera. The girl's legs are open, exposing her genital area. The girl has no breast development or pubic hair. The girl's hair is styled and the girl appears to be wearing makeup. The girl is facing the camera and smiling. In the upper left corner of the image appears "Ismodels."
3. (14) This is an image of two prepubescent girls, nude, on a bed. The girl on the left is lying on her back, her legs are open and exposing her genital area. The girl on the right is

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kneeling and leaning towards the girl on the left. Her left hand is placed on the breasts of the girl who is lying on her back. Neither girl has pubic hair or breast development.

4. This is an image of two girls, nude, lying on a bed. The girls appear to be the same girls from image 14. One girl is lying on her back, her head towards the camera. The other girl is kneeling over the other and her hands are covering her breasts. The girl lying on her back has her right hand placed on the genital area of the girl who is kneeling over her.
5. This is an image which appears to be a screen shot/screen capture of a computer monitor. In the lower three-quarters of the image is a picture of a girl in the extreme early stages of puberty, with little breast development, visible from her waist and above. The girl is nude and facing the camera, and appears to be seated or leaning backward. Two feet are observed placed next to and straddling the girl, and appear to be feet of an adult male, who appears to be standing/leaning over the girl. The girl is facing the camera, and white substance appearing to be ejaculate is visible on the girl's face, including her eyes, nose, mouth and chin. In the upper one-quarter of the image is the Internet toolbar, which identifies that the image appears on the following URL:
http://cs12.chatropolis.com/chat/perverted_old_men_top. Visible are tabs for various chat rooms, including "just legal teens," "extreme teen," "girls4men," "nudist colony," and some that are only partially visible, including "perverted old..." and "across generat..."

During an interview of the defendant, the defendant identified Chatropolis as an Internet website which the defendant utilized to engage in Internet chat activity.

6. This is an image of two prepubescent girls, visible from the lower chest and above, nude and lying on a bed. The girls have no breast development. The girls have clear/white substance on their faces and chests, which appears to be ejaculate. The girl on the left is facing the camera; the girl on the right is looking towards her left.

Subscribed and sworn to before me and
Approved For Filing on May 13, 2011.


☐ District Attorney John P. Snyder

State Bar I.D. #: 1014726

Assistant District Attorney

State Bar I.D. #:

☒ James H. Fassbender - 1005629

☐ Vicki L. Clussman - 1010669

☐ Brenda S. Freeman - 1026150


Complainant